

F605  
.593

5  
3

## KANSAS AFFAIRS.

### SPEECH

OF

# HON. CHARLES E. STUART, OF MICHIGAN,

DELIVERED IN THE SENATE OF THE UNITED STATES, JULY 9, 1856.

25-10  
The Senate having under consideration the report in favor of printing twenty thousand extra copies of the bill to enable the people of the Territory of Kansas to form a constitution—

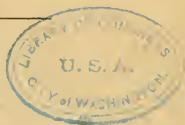
Mr. STUART said:

Mr. PRESIDENT: I have sat here, for six hours and more to-day, listening with other Senators to a debate on a proposition to print a bill which has passed the Senate, and the debate has taken a range as wide as the whole creation, not to say the subject of slavery. I have, as is known to Senators, refrained carefully from any discussion on this topic; and whenever I have interposed at all during this session, it has been to ask Senators to desist. I voted here upon this bill silently, not uttering a word, although several propositions were made in regard to which I should have been glad to explain my votes. I trust, under these circumstances, that the Senate will indulge me for a few minutes while I present some of the reasons which will govern my own action here and at home; and at the same time I say to some of the gentlemen on the other side that I shall present to them some inquiries in respect to their votes on this bill which I shall be very glad to hear them explain satisfactorily and consistently if they can. The subject of slavery is one, and perhaps the only one, in respect to which good men feel apprehension in regard to the safety of the institutions of this country. I think I may say that it is the opinion of patriots throughout the land, that it is the only question which can at any time, so far as we now know, seriously endanger the existence of our institutions. Knowing and believing this, I have not only sedulously avoided its discussion here, but I have asked others at all proper times to desist themselves.

Now, sir, I propose to present to the consideration of Senators here the condition that is occupied by men holding the opinions which I do in the northern States, and to contrast that position for a moment with the condition of gentlemen living in the southern States. Those gentlemen represent a constituency all of whose opinions on

this subject harmonize with their own, and whose feelings harmonize with their own. Whenever they advocate the interests of slavery, therefore, here or at home, they are in concurrence with the sentiment, and the reason, and the wishes of their people. If they are attacked at home, they are attacked by a body of men, as they are now by the American party, who insist that they are not sufficiently pro-slavery. All they have to do is to swim with the tide of public sentiment to make themselves popular and strong; while men occupying the position which I do in the northern States have to address themselves against the feeling of the people; for whatever gentlemen may say to you, Mr. President, the feeling of every northern man whom I have ever met is in favor of free States, and against the institution of slavery. That is the feeling; and hence, whenever we address ourselves to our constituents, we address their reason, their judgment, their patriotism—we point them to the landmarks and the compromises of the Constitution—we say to them that they are in honor bound to stand by it, that nothing less than the sacrifice of personal honor, nothing short of a sacrifice of patriotism itself, can induce them to indorse the fanaticism which surrounds them. Under these circumstances, I apprehend the feelings of a man may be appreciated who sees any considerable number of southern men, either in Kansas or out of it, furnishing to our fanatical opponents the ammunition and the weapons with which to destroy us. It was for that reason that I said to the Senator from Illinois the other day, that, if I were to prescribe a sovereign remedy for existing evils in Kansas, it would be utter and total silence in the Halls of Congress; and I ask the honorable Senator here to-day, if he does not believe, and if every Senator does not believe, that the discussions in Congress at this session have vastly magnified the evils existing in that Territory?

At home, during the last canvass, I took the ground, as all other northern Democrats did of whom I knew anything, that this subject was left *bona fide* to the people of the Territories to the



[1856]

extent that the Constitution could permit it; that the Democratic party had come to an understanding that, so far as the constitutional limits permitted it, the people of the Territories possessed the power to settle this question for themselves during the time of their territorial existence. The Senator from Louisiana, [Mr. BENJAMIN,] the Senator from Illinois, [Mr. DOUGLAS,] and every other Democratic Senator who has spoken on this subject here, to my knowledge, states the true ground. If the Constitution prohibits Congress from exercising the authority—if it prohibits the people of the Territory from exercising the authority, the people of the Territory, under the Kansas act, do not possess the authority, because Congress did not possess the power under the Constitution to confer it; but if the Constitution does not of itself prohibit it, the people have it to its greatest length and breadth. There is a difference of opinion among Democrats on this constitutional question, and we agreed to leave the legislative question in the plainest terms the English language could employ, simply reserving to any one who chose to do so the right to test it before the judiciary of the country, and we clothed the judiciary in that bill with the express power to try and determine the question.

The people, the Democratic portion of the people of the northern country, were satisfied with this adjustment. It was attacked, as I knew it would be—it was attacked, as I told my personal and political friends here it would be—violently; and every man who was not a Democrat at heart attacked it for political purposes to build up and aggrandize a political party that was literally dead under the effect of the compromise of 1850. Under that attack, great men, and good men, and pure men, have fallen, but they have fallen by the standard of honor, and by the standard of the Constitution, where a man would desire to fall who loves his country and respects his name. But, sir, those men will rise again by the power of a patriotic people who never fail to reward political virtue.

In the execution of this act, in my judgment, there has been no fairness at all—none whatever. No sooner did that act pass, than, the evidence is perfectly conclusive, the ultra men on both sides seized upon it for mischief. The evidence is as clear and conclusive as in mathematics it is true that two and two are four; that secret societies were organized on both sides to violate the principles of the Kansas act. What has been the consequence? The very worst that could be apprehended. At this point let me notice a remark of the honorable Senator from Vermont, [Mr. COLLAMER,] who is a member of the Committee on Territories. He tells us that these facts are conclusive, that the principle of the bill is good for nothing where it is tested, and that the reason why it succeeded in Nebraska, and in the other Territories, is because it has not been tried. Is that argument sound? Let me point the attention of that honorable Senator to the State of California. That State, at the last accounts, was in the hands of a vigilance committee; and he is prepared to say on that evidence that the "experiment," as he calls it, of the independent States of this Union is a failure? He can say it with equal propriety. The violations of a law are not the tests of the wisdom of the law.

Mr. WELLER. I know that the Senator does not intend to do injustice to my State; but there is no opposition to the law except in the county of San Francisco. There has been an attempt there at the suspension of the courts and the laws; but I beg of him to consider that as a local question, which does not extend beyond the county of San Francisco. I know of no movement on the part of the other counties to subvert the existing authorities or put down the laws. A state of things did exist in San Francisco which, in the judgment of a majority of the people there, justified them in suspending the criminal court and taking the law into their own hands. That is true.

Mr. STUART. I did not intend to say anything disrespectful to the State of California—far from it. I only alluded to the fact that there was an organization called a vigilance committee, which at the last advices was too strong for the State government in that locality, and to ask the Senator from Vermont whether he deems himself at liberty to say, on that account, that the experiment (for he calls this Kansas bill an experiment) of independent States of this Union proves to be a failure? Not at all; and so of the Kansas act. What, sir, the idea which lies at the very basis of American freedom throughout all the States a failure!—the right, and authority, and the ability of a people to legislate for themselves—that is the Kansas-Nebraska act; and that is all of it—that a failure! That principle an experiment which was born, so far as this country is concerned, with the Revolution, which is so resplendent this day as to command the admiration of the civilized world!

Now, sir, what law could not be violated? What law has not been violated? You might as well say it was an experiment to suppress murder in a community, because murders are successfully committed in violation of law. It is no experiment. But what I complain of is, that a few fanatical men on both sides have disturbed this great Confederacy of States in the most violent manner, and as a consequence of that have stricken down some of the wisest and best statesmen in the Union. I have heard with regret—and I have some personal knowledge of my own which I learned with regret—in respect to the conduct of the late Presiding Officer of this body, [Mr. ATCHISON.] I have said to my friends, and I say now, that he has done more injustice, and has committed more ingratitude, to his political friends, than any other man in this Union.

This law went into operation. The officers were appointed, and an election was held. That election never did in its purity meet my judgment; but who has executed the mischief? A man, of whom our opponents have sought to make a martyr. Wipe out the official acts of Governor Reeder, and that case stands to-day remediable without difficulty. If he had performed his duty as he ought to have done it, there never could have been a conflict at all. He should have withheld the certificates. There is evidence in his own record, sent by the President of the United States to the House of Representatives, enough to have satisfied any Governor with three grains of sense that that whole election was irregular. He should have withheld the certificates, and issued a new proclamation, and called on the

President of the United States for aid to protect the people of that Territory in the enjoyment of the benefits of the act in its very terms given to them. Had he done that, there would have been no mischief about the Kansas act. But through fear, or through a desire for fraudulent speculations on Indian lands, or both, he perverted the office which he held, and has complicated this subject to such an extent that it is difficult to remedy it. Is he censured by our political opponents? Is he held up, and his conduct criticized, or, as I have said, is he sought to be made a martyr? Is it claimed for him that he stands out in bold relief the man of all others to be honored by Kansas and the lovers of freedom? Was there ever such inconsistency before?

I shall pass as briefly through the history of this case as possible; but let me ask, what has been said in the Senate, and are those sayings legal and proper? It has been said on the floor of the Senate this day by the Senator from Maine, [Mr. FESSENDEN]—it has been said here frequently by the Senator from New York, [Mr. SEWARD,] now absent, that the people of that Territory are justified in resisting the laws. Allow me a moment on that subject. I hold the doctrine in respect to those laws to be this: laws enacted by a Legislature elected according to the forms of law, and placed upon a statute-book by courts, and by executive officers throughout this whole country, are to be regarded as binding laws, and it is their duty to execute them. It has been decided by the highest tribunals in the States and the United States, that no court can go behind the law to see whether it was fairly passed or not, and no executive officer called on to execute the law can be permitted to determine for himself its validity. Then, when Senators on this floor have told the people of Kansas from this high place that they were justified in resisting those laws, they have told them what courts, acting in obedience to laws and constitutions, have determined to be criminal ever since civilization began. And yet they say they are not responsible! Men stand here in their places, and say to the people of Kansas, "These laws have been forced on you by the people of Missouri; they are irregular; they are of no binding effect, and you are justified in their resistance;" and yet they "wash their hands of all the evils that exist in Kansas."

When it comes to a congressional question, in my judgment it is quite another affair. The authority of Congress put that Territory in a condition to be organized; and if Congress are satisfied that that organization has been irregular, fraudulent, and void, they possess the power clearly and beyond dispute to right the evil and afford a remedy. But, sir, the President of the United States and every executive officer, the Supreme Court of the United States and every judicial officer, is bound to regard those laws while they stand, as the existing *bona fide* laws of the Territory, and they are to be obeyed. Entertaining these views, I have been anxious from the commencement of the session of this Congress, that Congress should take up the subject and furnish a remedy. That we have the power is beyond all dispute. I have conversed with my friends, personal and political. I have spent, I may say, I hope, without egotism, anxious days and nights upon this matter. I have felt its importance. I have urged

men to adopt something as a remedy—a peaceful remedy, and I have implored them to refrain from these exciting debates. Now, we come to the remedy. Two propositions are presented, and they seem to be the ultimatums. One is presented by the majority of this body, which proposes to have a full, free, fair vote of the people in that Territory. The other proposes to admit the Territory as a State upon a constitution made without law, from its inception to its end, and made confessedly by a part only, and a small part, of the people of the Territory. In this connection I want the Senator from Ohio to illustrate a remark which he made to-day, and tell me what single circumstance there is in the whole history of the Kansas-Topeka constitution, and the history of the constitution of Michigan, which he claims to be similar? I tell him frankly that I do not know of any one, and I shall be glad if he will point out to me what one is so.

Mr. WADE. I have not the proceedings of the Michigan convention before me at the present time, but I know that there was a difficulty existing between the General Government and the Territory of Michigan, with regard to the boundary between Michigan and Ohio, and I know that during that controversy they formed a constitution without any application to the Federal Government. There was no proposition made and no power granted, but they organized a convention, made a constitution, and were admitted upon it. I believe that so far the cases are alike.

Mr. STUART. If the Senate will indulge me for a few moments, I propose to show that there is not one single circumstance that attaches to Kansas, from the beginning to the end, which is similar to any circumstance in the admission of Michigan into the Union. If there is any, I shall be most happy to be corrected; but this matter has been so often alluded to, and alluded to after remarks by my able colleague, that I shall undertake to show there is not a single circumstance of similarity between the cases.

Mr. WADE. Let me ask the Senator if they are not similar in this: there was a Territorial Legislature there at the time the people of Michigan formed their constitution, but it was done without the sanction of that Legislature. It was entirely a movement of the people themselves, and they made no application to Congress until they presented their constitution.

Mr. STUART. Not at all.

Mr. WADE. Am I not right?

Mr. STUART. Not at all. If the Senator will hear me, I will show him that he is mistaken in every particular. In the first place, the ordinance of 1787 authorized a certain number of States to be formed out of the Northwestern Territory, and authorized their admission into the Union whenever they should have sixty thousand inhabitants. Acting upon that authority, the Territorial Legislature of Michigan, after we had that number of inhabitants and more, passed a law to enable the people to elect delegates to a State convention to form a State constitution. Those delegates were elected, and they formed a State constitution, and submitted the adoption of it to the people of the Territory, and the people adopted the constitution. They elected a Legislature under it, and they elected their Senators to Congress. The people elected a Representative



to the other House. They came here, and demanded admission into the Union. All this was done in virtue of the territorial laws of Michigan, acting in virtue of the ordinance of 1787. When they came here, Ohio disputed the southern boundary. That boundary included the mouth of the Maumee river. It had, up to that time, been within the jurisdiction of the Territory of Michigan. It had not been within the jurisdiction of Ohio. All the officers, township and county, justices of the peace, and all others, were Michigan officers down to the southern boundary which we claimed; but Ohio claimed a right to that portion of the Territory. Congress took up the subject, and determined that Michigan should release that boundary, and carry it ten miles further north, as a condition of being admitted into the Union; and they determined that that consent should be given by "a convention of the people." That is the language of the law of Congress. They did not say how that convention should be called. They did not say that it should be called by the Legislature. They did not say that there should be legislative consent; but they said a convention of the people of Michigan should consent to that boundary. The Legislature afterwards called a convention, and that convention rejected the proposition. The people then took up the subject themselves, and they called a convention. That convention accepted the proposition, and that acceptance was sent to the President of the United States. He transmitted it to Congress; and Congress, after full debate, decided that that acceptance was within the terms of its own law. Therefore, you see, sir, that there was not a movement in Michigan, from the beginning to the end, that was not in accordance with the provisions of a law, either of the Territory or of Congress, or of both. Now, here is the Topeka constitution, formed throughout without law from its inception to its end, admittedly by its friends, and yet it is said to be a parallel case to Michigan. I submit that there is not a single circumstance, from its commencement to its end, that is parallel; and I hope (although I confess that I have no ground to hope, from past experience) that it will not be asserted, at least here again, that the case of Kansas and the case of Michigan are parallel.

Mr. President, how has this question been treated? I am not going over the ground which has been occupied by the Senator from Georgia and others, so ably and, in my judgment, so conclusively; but I am going to call the attention of the gentlemen opposed to me politically, on this floor, to a few of their own acts, and to ask them how they explain them. I called the attention of the Senator from New Hampshire, [Mr. HALE,]—who, having got through with his speech to-day, has left us—to the fact that, notwithstanding his assertion that he had never given a vote for the Missouri compromise line, because it inferentially admitted slavery south of it,—I called his attention to the fact that he voted for it yesterday, and he voted for it a few mornings ago, at the close of the sittings on the original bills, emanating from the Senator from Georgia. In order that that vote may not be misapprehended, let me state a little of its history. The honorable Senator from Vermont, [Mr. COLLAMER,] representing a minority of the

Committee on Territories, in a speech yesterday, reiterated his remedy. He said the evils under which we were suffering this day grew out of the repeal of the Missouri compromise; that the remedy thereof was to restore the Missouri compromise; and, as a *finale* to his doctrine, thus explained to the Senate, he presented his amendment to restore the Missouri compromise, word for word, and every one of the twelve Senators on the other side voted for it; and yet they say they have been always opposed to the Missouri restriction because it inferentially admitted slavery south of it.

Another thing, sir. A principal plank in their platform—one which I contended against in 1854, as I shall ever contend against it, because it is in the very teeth of the Constitution of the United States—is opposition to the reclamation of fugitive slaves, and I think nearly every man of them has declared himself ready to do anything, to suffer anything, rather than go for that. Yet, in this very same amendment, every man of them voted for it. Here it is; I will give the language very nearly, for it is too dark to read it now: "*Provided*, that any person owing service or labor, and escaping into that Territory, shall be reclaimed by his owner, or the person to whom the service is due, and reclaimed according to law." That is the language of the amendment, and every man of them voted for it. Now, sir, when you reclaim a fugitive from service *according to law*—when you lawfully reclaim him, you reclaim him under *existing laws*. If that bill should pass into a law with this amendment in it, the fugitive slave law of 1850 would be the law under which you would reclaim him, and the only law. When a legislative body says that an individual or a people may do a thing *lawfully*, it is saying they may do it *according to existing laws at the time it is done*. This shows how far party tactics will lead party men. It was only necessary that one of that side should offer an amendment, for every man to vote for it, no matter what it contained.

Mr. BELL, of New Hampshire: Will the Senator from Michigan permit me to ask him a question?

Mr. STUART. Certainly.

Mr. BELL, of New Hampshire. I ask him on what ground he assumes—I speak for myself and for many other gentlemen who voted with me—that we are opposed to the reclamation of fugitive slaves?

Mr. WELLER. You are in favor of it, and voted for it.

Mr. BELL, of New Hampshire. But the Senator from Michigan says we are opposed to it; and he says that every one of us has declared ourselves opposed to the reclamation of fugitive slaves. I ask him what warrant he has for that statement?

Mr. STUART. I say that the principal plank in the platform of the Republican party is the repeal of the fugitive slave law.

Mr. TRUMBULL. There is no such thing in it.

Mr. STUART. I am not talking of the last one which you made. I am talking of the one on which you fought the battle of 1854, in opposition to the Kansas act; and that was the repeal of the fugitive slave law, and the admission of no more slave States. That is the ground I opposed then. I took the stump throughout the

State in which I live, against that ground, as being in open violation of the plainest language of the Constitution of the United States.

Mr. DOUGLAS. If the Senator will allow me, I will state that the platform distinctly put forth in every part of Illinois before, and I presume no one will deny it, was this: No more slave States; the repeal of the fugitive slave law; the prohibition of slavery in all the Territories; the abolition of slavery in the District of Columbia; the abolition of the slave trade between the States;—and each candidate was required to pledge himself to each one of the measures in every convention in our State.

Mr. TRUMBULL. Will the Senator from Michigan allow me to say one word here?

Mr. STUART. Certainly.

Mr. TRUMBULL. I wish to say, in reply to what my colleague has said, that I ran for Congress in one of the congressional districts of Illinois, and no such platform was adopted, and no such ground was taken by me. I ran in opposition to the Nebraska bill. No such ground was avowed, as my colleague states. No State convention in Illinois ever put forth such ground. County meetings may have put it forth; but it never was the doctrine of the anti-Nebraska party of Illinois. He cannot show a resolution of the district in which I live, putting it forth; and I never heard of such ground being assumed. I have always disavowed it.

Mr. DOUGLAS. I wish the Senate to notice, that up to the middle of the session my colleague averred that he was a Democrat, and denied any association with Republicans, or responsibility for their platform; but in the State anti-Nebraska platform at Springfield, they took the ground I stated; in the Galena district they put forth that platform; and in each of those other districts they put it forth. In the district from which my colleague came, it was necessary to cheat the people by denying that they belonged to the Republican party.

Mr. TRUMBULL. Does the Senator mean to say that an anti-Nebraska convention ever assembled in the State of Illinois in 1854?

Mr. DOUGLAS. Yes.

Mr. TRUMBULL. At Springfield?

Mr. DOUGLAS. Yes.

Mr. TRUMBULL. I never heard of it.

Mr. DOUGLAS. My colleague was present in town, and I saw him.

Mr. TRUMBULL. I never knew of any such thing, but my colleague seems to have been there! I was not. No convention ever did assemble of the anti-Nebraska party generally at Springfield, during that canvass. I do not know what individuals may have done, but no such convention ever assembled there. I know my colleague is very much in the habit of talking of Abolitionists and Black Republicans, and of Maine law men, and of putting them all together, and charging them all to be the same thing. I did say that I was attached to no party at the present session of Congress; that I had always been a Democrat. I am so still, and expect to continue so; and I believe I shall be so in sustaining Colonel Fremont for the Presidency. He is a very much better Democrat, in my opinion, than the candidate whom my colleague sustains. But I do not wish it to go forth to the country that any such plat-

form was ever adopted by the anti-Nebraska party, as the Senator states; and I say to him that he cannot produce the action of an anti-Nebraska convention that ever assembled at Springfield, putting forth such doctrines as he states here. I do not say that he may not find individuals who sustain those doctrines; but I am speaking of a general State convention. I have some knowledge of the general proceedings in Illinois, and I know that no such meetings were ever held, and no delegates were sent from my part of the State to any such convention.

Mr. DOUGLAS. I know such was the case in the Galena district—the first district. I know that it was the case in the Chicago district—the second district. I know that it was the case in the Bloomington district—the third. I know that it was the issue in the fourth district—Mr. Knox's. I know that the same issue was made on Colonel RICHARDSON in the fifth district, and on Major HARRIS in the sixth. I was not in the other districts during the campaign. But I do know that, during the State fair at Springfield in October in that year, an anti-Nebraska convention was held, and notice of it was published for weeks previous. We had a Democratic meeting during the same week. I know that when Mr. Lincoln concluded his speech in the State-house against me, and I rose to reply, Mr. Lovejoy, one of the Abolition candidates for Congress now, stepped on the stand and announced that the anti-Nebraska State convention would meet immediately in the Senate Chamber. I know that my colleague was present in the town at the time. I know that that was a regular Abolition convention, for the repeal of the fugitive slave law, the prohibition of slavery in the District of Columbia, the prohibition of the slave trade between the States, and the admission of no more slave States into the Union. I know that that was announced as an anti-Nebraska State convention, and was published for weeks previous. I know that my colleague denied belonging to it at that time, and never was admitted into the party until about three weeks ago, and therefore is not good authority on that point.

Mr. STUART. Mr. President, I intended to confine my remarks to the subject under consideration, and I have indulged my friends from Illinois with a great deal of good feeling, but I am a little afraid that they will get out of order if I permit them to go any further, and I want to reply to the Senator from New Hampshire. I saw that he did not understand the points that I made, and as I have light now, (the chandeliers having been lighted,) I can make it out perhaps more distinctly. Yesterday these proceedings occurred:

"Mr. COLLAMER. I offer the following amendment as an additional section; on which I ask for the yeas and nays:

"*And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, and not included within the State of Missouri, slavery and involuntary servitude, otherwise than in punishment for crimes whereof the party shall have been duly convicted, shall be and is hereby forever prohibited: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid."

My point is that this language, declaring "such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid," means, "may be reclaimed under existing laws, and conveyed to the owner under these laws;" and hence I said, that if this amendment had been adopted, and the bill passed into a law, and a person claiming such an individual should go into the Territory to reclaim him to service, he must proceed under the existing fugitive slave law; and consequently every man who voted for that amendment voted to indorse the fugitive slave law as it stands, because it says "may be lawfully reclaimed," and there is no other law but that.

Mr. BELL, of New Hampshire. Will the Senator from Michigan permit me for a moment? I think he did not understand me. I understood him to make an assertion that the whole twelve Senators who voted in the negative on the Kansas bill, when it was pending before the Senate, were opposed, and had all declared themselves opposed, to the execution of the fugitive slave law. The inquiry I made was, what warrant he had for that assertion? I was not aware, as far as I was concerned myself, of having given any authority to any man to make that statement in respect to me; and in respect to many men who appear here in the Opposition, I suppose the same remark holds true. I think the statement of the Senator was too sweeping and comprehensive, and he can find no authority for making it.

Mr. STUART. The Senator will allow me to ask him, then, is he in favor of the execution of the fugitive slave law?

Mr. BELL, of New Hampshire. I do not now hold, and have never avowed, that there is anything in the law against its execution.

Mr. STUART. What is the Senator's view of it?

Mr. BELL, of New Hampshire. I sustained the compromise measures of 1850, and always supported them as long as they were upheld by others—every part and parcel of them; not because I approved them all, but because I deemed them the lesser of many evils. Before Senators undertake to represent the opinions of other gentlemen standing here, I think it is well enough for them to advise themselves a little as to whether their statements on that subject are not altogether too comprehensive and sweeping.

Mr. STUART. The honorable Senator has misapprehended me altogether in one particular. I wish to ask him now, whether he is in favor of the present fugitive slave law, and against its repeal?

Mr. BELL, of New Hampshire. That is another point. I may be in favor of the repeal of a law; but as long as it stands as a law on the statute-book of the United States it must be enforced. I have already stated to the Senate that I favored it originally merely as a choice of evils; and when the question of its repeal is presented, I may go against the continued existence of that law. That is another point. I think it is a departure from the question as made.

Mr. STUART. Now I will state what I said, and the Senator will see that he misunderstood me. I did not say that every one of the twelve Senators who voted for this amendment was opposed to the execution of that law. I stated that the

principal plank of their platform in my country in 1854 was the repeal of that law, and that every man of them here voted for it; but I did not state anything about their opinions. The opinions of some of them I knew, for I had heard them expressed on this floor. I think the honorable Senator from Ohio has presented instructions from his State Legislature at this session for the repeal of that law.

Mr. WADE. Yes, sir; and I voted for it two or three times.

Mr. STUART. I think the State of Massachusetts has presented similar resolutions for the repeal of the law, and I think the repeal of the law is an element in the Republican organization; but yet every Senator here claiming to belong to that organization has voted by this amendment to reclaim fugitives in Kansas under and by virtue of this law.

Mr. President, I shall detain the Senate but a few minutes longer in considering this proposition. I have said enough already to show that the proposition embodied in the bill which has passed the Senate, did not meet all that I desired individually. My fellow-Senators very generally know that; but I have been long enough in life to learn that a man in a deliberative body can have nothing precisely as he wants it. He must yield something to the opinions and wishes of others. It is presented, therefore, in the existing excited condition of the country, and in the lamentable condition of Kansas, as the only remedy that it is possible to pass. And how is it objected to? Every Senator who has spoken on the other side has acknowledged that upon its face it is a good bill, and that, if it could be carried out according to its own terms and provisions, it would execute a good purpose—it would heal the difficulties in Kansas, and reduce things to order and harmony throughout the country. Now, I say to my honorable friends here—opponents, as well as those who think with me—that whenever any man ventures opposition to a bill on the ground that it is to be dishonestly executed, it is an argument which subverts the foundation of all law. Human ingenuity cannot pass a law which is to be effective, if it is not to be honestly and completely executed. If you assume that the courts of the country, the President, and the executive officers of the country, will not execute your laws, then you may abandon legislation upon this, and upon all other subjects. I go for this bill upon the belief and upon the expectation that, like all other laws, it will be honestly executed and carried out; and the surrounding circumstances of the country, so far from permitting me to leave them as they are, urge me to forego the personal wishes which my friends know I had in respect to some amendments to that bill, and to give it my hearty and my full support.

Now, sir, let me say a word to the honorable Senator from Illinois [Mr. TRUMBULL] in respect to his amendment against which I voted. He has heard me state to-day that I did not vote against it because I thought the Legislature of Kansas was fairly organized; but he proposed by that amendment to sweep out all law in that Territory, and to leave nothing but anarchy; and I was amazed to hear his response to the honorable Senator from Ohio, [Mr. PUGH.] When that Senator asked him if the bill was defective, as he



insisted it was, for the preservation of peace from this time until that convention should sit and decide whether it would come into the Union to propose amendments, his answer was, that his proposition for peace to Kansas was to repeal all laws and all legislative bodies. That I may not be mistaken about that, let me read what those two Senators said:

"Mr. FROTH. It was suggested by the Senator from Vermont, and reiterated by the Senator from New Hampshire, that there was no provision in the amendment reported by the committee to protect the persons who have been driven, as they say, out of the Territory, by violence, after their return. I think it is sufficiently covered; but I invite those Senators, or any of their colleagues, to propose any amendment which will more effectually protect persons and property in the Territory, and especially the persons who have been driven out; and, for one, I shall vote for it, as I have no doubt a majority of those who support the bill of the committee will do.

"Mr. TRUMBULL. I just offered a proposition which I thought would accomplish that by getting rid of the usurpers in the Territory who were and are oppressing these people; but it met with no favor."

Let me read the proposition of the Senator from Illinois, [Mr. TRUMBULL:]

"And be it further enacted, That all the acts and proceedings of any body of men heretofore assembled in the Territory of Kansas, and claiming to be a Legislative Assembly thereof, with power and authority to pass laws for the government of said Territory, are hereby declared to be utterly null and void and no person shall exercise any power or jurisdiction, or hold any office under, or by virtue of authority derived from such Legislative Assembly; nor shall the members thereof have or exercise any authority as such."

That, the Senator from Illinois answers the Senator from Ohio, is his remedy to protect the people now in the Territory of Kansas—to protect those men who have been driven out, and who may go back up to the time of the election. Did ever any mortal man hear of a remedy like that?

As I have said, I am not going over ground that has been so ably occupied by others; but a suggestion was made by the Senator from Illinois to the Senator from Maine, when he was interrogating my friend from Ohio, in respect to the repealing section of the present bill. It was asked (upon the suggestion of that being untrue, as I thought, because he was talking to the Senator from Maine at the time; but, if I am mistaken, I can be corrected) whether it was claimed that the law which was a test for a practicing attorney was against the terms of the original Kansas act? and it was considered, I think, with some triumph, that there was a law which was reached by the amendment of the Senator from Missouri, which did not conflict with the terms of the original Kansas act. I have always found that, when a man was prompted, he generally made a mistake. I say it is in conflict with that act, and with the Constitution of the United States, palpably. What is the business of a lawyer by profession? It is to defend men who are arraigned for crime—men who are prosecuted for a libel, or for anything else—and to defend them with the utmost freedom of speech. Suppose a man prosecuted in that Territory for an infringement of the fugitive slave law. His counsel's mouth is closed by that law of the Territory against arguing to a court that it is an unconstitutional law.

He is sworn to support it; and would he be supporting a law against the constitutionality of which he was arguing? I say, it is in conflict both with the organic act and the Constitution of the United States; and there is not a law reached by the amendment of the Senator from Missouri that does not conflict with that provision of the organic act which declares that that people shall be perfectly free to form and regulate their own domestic institutions in their own way. Freedom of speech, freedom of the press, freedom of speech of counsel, freedom of opinion in jurymen, all are indispensable to leave a people perfectly free to form the institutions which are to exist, and under which they are to come into the United States Confederacy. It was, therefore, proper; and the suggestion which was made constitutes no exception to the general rule—none whatever.

I regret that the honorable Senator from New York is not here; but when the resolution of the Senator from Kentucky was under consideration, he made a remark in respect to me that I thought entirely unfounded, and exceedingly unkind. He asserted here in the Senate that I had avowed myself in favor of doing nothing for the people of Kansas Territory. I ask, has any man who advocates the Topeka constitution done anything for the purpose of healing dissensions and calming the difficulties in the Territory of Kansas? If there is one of those Senators on this floor who can rise and say he has made a speech for that object—that he has made a speech with that design—to allay strife in Kansas—to allay contention and ill-feeling in the Union, let him rise and point me to that speech. On the contrary, it has been, so far as I have heard—and I have been here every day but one—a series of attacks on the Administration, upon the Democratic party, and in too many instances the people of that Territory have been told that they were justified in resisting the laws. Then we are presented from that side of the House with no remedy except the Topeka constitution. The arguments of Senators who have preceded me on that subject are so conclusive to my mind—they are such as struck me in the outset, that I do not wish to add a word on that subject. I have not another word to say in respect to the bill which has passed the Senate, and which is under consideration, except this: it is asked what use is it to publish that bill? Why, sir, I can furnish an incident which ought to be conclusive in the mind of every man for publishing it. No longer ago than the last congressional election in Michigan, a distinguished gentleman from the State of Ohio, the present chairman of the Committee of Ways and Means of the House of Representatives, came to my town and made a speech, in which he took up the Kansas act, and commented on that part of it which is the language of the ordinance of 1787, respecting the organization of the Territory, the enumerating of the inhabitants, the proclamation of the Governor, and the election, which is *verbatim* the language of the ordinance of 1787, and *verbatim* the language of every territorial act that has ever been passed. He took it up, and declared the whole of it an outrage such as had never been perpetrated upon the people of the country before! To cap the climax of his speech, the gentleman from Ohio declared that a citizen

of South Carolina—yes, sir, a citizen of South Carolina—was the Governor of Kansas, chosen and selected by the pro-slavery Democracy, as he said, to carry out the design of making Kansas a slave State. When I replied to him a few evenings afterwards, and stated the fact, that no gentleman from South Carolina was the Governor of Kansas, an eminent Republican of Detroit jumps up in meeting and asks me who was; and when I told him Mr. Reeder, of Pennsylvania, he seemed amazed. That was a perversion in respect to the act, and in respect to the officers of the country, which shows you the necessity of spreading this bill far and wide before the people.

I have faith, sir, to believe that the conservative Constitution-loving people of the northern States will look upon this bill, see that it is fair, and that it furnishes a means of relief. I wish it spread before their eyes. Before that people I expect to go to meet this issue and abide its results. My fate is linked with theirs. They are lovers of the country and supporters of the Constitution, and sooner or later they will come to the conclusion to stand by the Constitution, and oppose all parties that are for disregarding and contemning its fundamental principles, destroying its founda-

tions, and dissolving this Union, which alone can preserve our greatness, prosperity, and happiness.

The Senator from Massachusetts says that when his party have got a majority in the House of Representatives, a majority in the Senate, and Fremont elected President, they are going to abolish slavery in Kansas. Well, sir, I can think of no argument that is proper to meet that except the old maxim that "when the skies fall we shall catch larks." That is so improbable an event, that I cannot conceive that it is put forward by the Senator here as an argument based upon reasonable expectation, but rather as a mere flourish with which to close a sentence.

Mr. President, I shall now leave this subject, in the hope that every vote I have given on it during this Congress, and every one which I may be called upon to give hereafter, will be fully explained by the views which I have now submitted. It was the only purpose which I had in rising, and it is one which I should not have executed now but for the fact that we had spent more than six hours of the day, and put it out of our power to do any other business, in considering the question whether we should print twenty thousand extra copies of this bill.

LIBRARY



00

LIBRARY OF CONGRESS



0 016 089 351 5 ●